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STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	R.06-04-009 (Filed April 13, 2006)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) PRE-PREHEARING CONFERENCE COMMENTS

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SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) PRE-PREHEARING CONFERENCE COMMENTS

I.

INTRODUCTION.

Pursuant to the November 1, 2006, Joint Administrative Law Judges' (ALJs) Ruling and Notice of Prehearing Conference (Joint Ruling), Southern California Edison Company (SCE) hereby submits its Pre-Prehearing Conference (PHC) Comments (Comments). In their Joint Ruling, ALJs Terkeurst and Lakritz noticed a PHC, established the due date for pre-PHC comments on the scope, schedule, and need for evidentiary hearings, and addressed other procedural matters.[1]

While Assembly Bill (AB) 32[2] provides that the California Air Resources Board (CARB) will develop a statewide, market-based approach in regulating greenhouse gas (GHG) emissions in California, the CARB must consult with other state agencies, including the California Public Utilities Commission (Commission), and other stakeholders before finalizing its regulations. Executive Order (EO) S-20-06 issued October 18, 2006,[3] directs CARB to bring both market-

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1 Joint Ruling, *mimeo,* pp. 1 and 11. The ALJs suggested that parties review the Order Instituting Rulemaking (OIR), the comments filed by parties in response to ALJ Meg Gottstein's April 17, 2006 ruling, D.06-02-032, and Attachment A to the Joint Ruling.

2 AB 32, known as the California Global Warming Solutions Act of 2006, added Section 1, Division 25.5 (commencing with Section 38500) to the California Health and Safety Code.

3 The text of EO S-20-06 appears on the website of the Office of the Governor at: http://gov.ca.gov/index.php?/executive-order/4484/

based and regulatory measures forward on a concurrent and expeditious schedule and further orders CARB, in collaboration with the Secretary for Environmental Protection and the Climate Action Team, to develop a comprehensive market-based program that permits trading with the European Union and the Regional Greenhouse Gas Initiative (RGGI).[4] SCE urges the Commission to consider the manner in which it will coordinate its rules developed in Phase 2 of this proceeding with the CARB's process for developing regulations pursuant to AB 32, and distinguish and adopt its role and oversight responsibilities in conjunction with other state's GHG reduction efforts. This threshold issue must be clearly decided early as the Commission begins to examine the scheduled issues.

SCE urges the Commission, in establishing regulatory and market-based strategies to achieve GHG emission reductions for its jurisdictional load-serving entities (LSEs), to do so in a manner that:

- Does not impose a disproportionate cost burden on the electric utility sector as a whole or on the investor-owned utilities (IOUs) in particular;
- Coordinates closely with the California Energy Commission (CEC), CARB, and California Environmental Protection Agency (CEPA) to ensure equitable and comparable rules are developed and applied to all electric utilities and electric service providers;
- Is most cost-effective;
- Takes the existing energy market environment into account by coordinating with the efforts of the California Independent System Operator (CAISO) in its Market Redesign and Technology Upgrade (MRTU) process;
- Addresses issues related to load migration, including customer self-generation and potential future direct access in designing a load-based GHG emissions cap (LBC) program.

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[4] EO S-20-06, ¶ 5.

SCE urges the Commission to adopt model rules and oversight design that cover the LSEs over which the Commission has authority and then present its model rules to the CARB for integration into statewide regulations that CARB will adopt pursuant to AB 32, which addresses all electric service and energy sectors. The Commission should advise the CARB to adopt equivalent rules for the other portions of the energy sectors over which the CARB has authority under AB 32.

II.

THRESHOLD ISSUES THAT THE COMMISSION NEEDS TO ADDRESS BEFORE ESTABLISHING RULES IN PHASE 2.

A. Threshold Issue 1: The Commission Should Establish the "End Products" that will Result from Phase 2.

In order for parties to participate meaningfully and efficiently in Phase 2 of this proceeding, the Commission should clearly indicate its expectations regarding the regulatory "end products" that will result from this phase and the manner in which the Commission expects to use such "end products" in coordinating and interacting with the CARB in the course of the CARB's rulemaking. SCE fully recognizes that we are still in the very early stages of the regulatory processes of the Commission and the CARB and that they likely have not had definitive discussions regarding the nature and process of their interactions on the issues they must resolve. Nonetheless, before proceeding too far in the Commission's proceeding, parties must have an unambiguous and common understanding on the nature of the final regulatory product. To use a metaphor: are we simply gathering needed building materials, are we drawing up provisional blue prints, or are we actually constructing a building? In particular, SCE can envision a wide range of possible regulatory end products that may result from Phase 2, such as:

- A compilation of relevant company-specific and industry facts;
- A compilation of relevant facts plus fairly broad policy recommendations;

- A set of draft rules; or
- A set of final Commission-adopted rules.

For reasons presented below, SCE recommends that the Commission adopt a set of draft model rules that the Commission could present to the CARB when they initiate the consultative process envisioned by AB 32.

B. Threshold Issue 2: The Commission Should Determine The Manner In Which Its Rules Will Coordinate With The Comprehensive, Statewide, Market-Based Approach That May Be Adopted By CARB Under AB 32 and EO S-20-06.

1. CARB is Likely to Adopt a Comprehensive Market-Based Cap and Trade Program Under AB 32 and S-20-06.

AB 32 provides authority for CARB to develop a statewide, market-based approach in regulating GHG emissions in California. AB 32 establishes Health and Safety (H&S Code section 38562(c), which provides:

> In furtherance of achieving the statewide greenhouse gas emissions limit, by January 1, 2011, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.

In addition, EO S-20-06 directs CARB in collaboration with the Secretary for Environmental Protection and the Climate Action Team, of which the Commission is a member, to develop a comprehensive market-based compliance program aimed at allowing trading of emission credits with the European Union and RGGI.

Taken together, authority provided under AB 32 and the directives of EO S-20-06 make it clear that the state is headed toward the design and adoption of a comprehensive market-based cap and trade compliance system to achieve GHG reductions in the most cost-effective manner possible.

2. CARB is the Agency for the Adoption of GHG Reduction Regulations.

As recognized in the Joint Ruling, AB 32 passed the Legislature on August 31, 2006, was signed by Governor Schwarzenegger on September 27, 2006, and becomes state law on January 1, 2007. AB 32 designates CARB as the state agency to adopt regulations to ultimately reduce California's GHG emissions to 1990 levels by 2020. Health and Safety Code section 38510 provides:

> The State Air Resources Board is the state agency charged with monitoring and regulating sources of emissions or greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases.

Specifically, among other things, AB 32 requires the CARB to:

- Adopt regulations to require the reporting and verification of statewide GHG emissions of sources designated by CARB and to monitor and enforce compliance with this program;[5]
- Determine the level of GHG emissions statewide in 1990 and set the GHG emissions limit for 2020;[6]
- Adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions, including adopt any early action measures by Board considers appropriate;[7]

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5 H&S Code § 38530(a).
6 H&S Code § 38550.
7 H&S Code § 38560.

- Adopt emission reduction measures to meet the 2020 limit "in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions";[8]

- Monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by the CARB, pursuant to specified provisions of existing law;[9] and

- Adopt a schedule of fees to be paid by regulated sources of greenhouse gas emissions, as specified.[10]

3. In Fulfilling its Obligations under AB 32, CARB Must Consult With Other State Agencies, Including the Commission, and Stakeholders.

While it is clear that AB 32 designates CARB as the lead agency responsible for the full range of regulatory authority necessary to achieve the return-to-1990-by-2020 goal, the law requires CARB to consult with a variety of agencies with key expertise, knowledge, and history in addressing the global warming issue. AB 32 explicitly specifies in a number of provisions that the CARB will coordinate with other state agencies and stakeholders when it acts as the lead agency in implementing AB 32.

First, AB 32 adds Health & Safety Code section 38501(f), which provides:

> It is the intent of the Legislature that **the State Air Resources Board coordinate with state agencies**, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this division. Emphasis added.

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[8] H&S Code § 38562(b)(1).
[9] H&S Code § 38580.
[10] H&S Code § 38597.

Second, AB 32 adds Health & Safety Code section 38561(a), which provides:

> On or before January 1, 2009, the state board shall prepare and approve a scoping plan, as that term is understood by the state board, for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases by 2020 under this division. **The state board shall consult with all state agencies with jurisdiction over sources of greenhouse gases, including the Public Utilities Commission** and the State Energy Resources Conservation and Development Commission, on all elements of its plan that pertain to energy related matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service, petroleum refining, and statewide fuel supplies **to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the state board are complementary, nonduplicative, and can be implemented in an efficient and cost-effective manner.** Emphasis added.

Although AB 32 is clear that CARB is the lead agency to promulgate the regulations required to implement its provisions on a statewide basis, it explicitly does not diminish or change the authority of the Commission. AB 32 adds H&S Code section 38593(a), which provides that:

> **Nothing in this division affects the authority of the Public Utilities Commission.** Emphasis added.

Most importantly, in addition to acknowledging the Commission's authority, AB 32 adds H&S Code section 38501(g), which provides:

> It is the intent of the Legislature that **the State Air Resources Board consult with the Public Utilities Commission** in the development of emissions reduction measures, including limits on emissions of greenhouse gases applied to electricity and natural gas providers regulated by the Public Utilities Commission in order to ensure that electricity and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements. Emphases added.

Therefore, under AB 32, the Commission has a unique and important role to play in the development of GHG regulations. The Commission has a rich history and experience from its regulation of the electricity utility industry and special responsibilities to the customers of IOUs and other LSEs. This background and the information the Commission's regulated entities can provide in Phase 2 of this proceeding are important aspects for the CARB to consider in developing rules applicable to all producers of GHG emissions in the state.

4. A Threshold Issue is The Manner In Which The Commission's Rules Will Coordinate with the CARB's Regulations Developed for the Entire State.

The Commission should proceed in Phase 2 to define draft rules and to determine the manner in which it will coordinate its rules with the comprehensive market-based approach likely to be adopted by CARB for the state as a whole. The Commission need not postpone Phase 2 of this proceeding or wait until CARB has acted under its new authority to develop and implement statewide policies and implementation programs authorized by AB 32. Given the necessity to create the comprehensive system envisioned under EO S-20-06, the Commission should consider carefully the role it wishes to play in designing the comprehensive market-based approach for reduction of GHG emissions.

The Commission has established a leadership position in moving the state forward to address the reduction of GHG emissions. It has acted in a "prime mover" role on a variety of fronts, most notably renewables, energy efficiency, demand side management, the GHG adder, and GHG emissions performance standard. However, since the clear language of AB 32 invests regulatory authority in the CARB for reduction of GHG emissions and EO S20-06, and envisions a single program that encompasses the entire state, the Commission should determine early in the process how best to coordinate with CARB in the achievement of the mission assigned to it by the state. The Commission's oversight role must be determined before it adopts LBC regulations over entities within its jurisdiction. While there are a variety of possible roles the Commission could choose to play, the Commission should propose draft model rules that cover the LSEs over

which the Commission has authority and then present these model rules to CARB for integration into statewide regulations that CARB will adopt pursuant to AB 32 and S-20-06. Furthermore, the Commission should work with the CARB and the CEC to ensure that comparable and equitable rules are developed and adopted for other electric service providers outside of its own jurisdiction. The ultimate goal is that the state develops a set of uniform GHG emissions rules across all sectors of the economy so that the state reduces GHG emissions, as AB 32 requires, "in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions."[11]

SCE urges the Commission to draft model rules to present to the CARB and to propose recommendations for equivalent equitable rules for the CARB to adopt for the other electricity and natural gas energy sectors, especially for the segment of Californians served by municipal utilities. A comprehensive approach to reducing GHG from the electricity sector is needed if the state is to meet its GHG reduction goal in a cost-effective manner. SCE's preliminary 2004 estimate is that California's IOUs supplied about 62% of the electric energy distributed in the state and are responsible for about 50% of the carbon dioxide (CO_2) from the electric sector. The municipal utilities appear to have supplied about 26% of the electricity distributed in the state while emitting 37% of the CO_2 from the electric sector. Thus, the municipal utilities' rate of contribution of CO_2, compared to their production of electricity, is much higher that of the IOUs. Any equitable approach to reducing GHG emissions must include the emissions from the municipally owned electric utilities, which are subject to regulation by CARB under AB 32.

Adopting model rules would allow the Commission to provide its knowledge and expertise to the CARB and would allow the Commission to establish cost-effectiveness standards to assure the ratepayers under its jurisdiction are treated fairly. At the same time, by using a model-rule approach, the Commission would allow the CARB to determine (as it must under

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[11] H&S Code § 38562(b)(1).

AB 32) the best way to design a comprehensive market-based system for the state that, by its nature, would include municipally owned electric utilities.

C. Threshold Issue 3: The Commission Should Resolve the Potential Inconsistency between the Commission's Load-Based Regulations and the CARB's Source-Based Regulations.

The Commission should initially consider a second threshold issue in order to ensure that its coordination with the CARB will establish consistent, coordinated, and fair regulations governing the entirety of California's electricity industry. Specifically, before exploring more detailed program design and implementation issues, the Commission should explore threshold complexities at a very broad architectural level. These complexities arise primarily because of two factors: (1) the Commission has jurisdiction over only a subset of California's electricity industry (in particular, it lacks jurisdiction over municipal utilities and wholesale power suppliers); and (2) the Commission has announced its intention to adopt load-based regulations while the CARB appears to be headed toward source-based regulations.[12] These latter two approaches may or may not be fundamentally incompatible with one another. Nevertheless, this is certainly a threshold issue deserving of initial exploration and investigation by the Commission. To resurrect our metaphor: the building finally constructed will not stand if its broad architectural scaffolding is inconsistently constructed.

To illustrate further why the Commission must consider the fundamental architectural issues early in the process, consider the following simple questions:

- If the Commission adopts load-based regulations, will the CARB exclude utility-owned or utility-controlled power sources from its regulations?
- If an independent power producer sells a portion of it power to a utility and a portion of its power out of state, what mix of source-based CARB regulations and

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[12] SCE recognizes that scant evidence currently exists as to the precise direction that CARB will take.

load-based Commission regulations will it be subject to and what issues unanticipated issues may arise from these two different regulatory approaches?

- Does the CARB intend to impose load-based regulations on municipal utilities and, if not, what issues might arise due to the asymmetry between the fundamental regulatory approaches of the Commission and the CARB?
- If the CARB does not impose load-based regulations on the municipals, then how does it expect to regulate GHG emissions associated with imports of power by the municipal utilities?
- Does the CARB have adequate authority to impose a load-based cap on municipal utilities?

These and other threshold issues must be considered and resolved before proceeding to resolve the issues identified by the Commission for Phase 2 consideration.

III.

THE COMMISSION, IN ESTABLISHING REGULATORY AND MARKET-BASED STRATEGIES TO ACHIEVE GHG EMISSION REDUCTIONS, SHOULD DO SO IN A MANNER THAT DOES NOT IMPOSE A DISPROPORTIONATE COST BURDEN ON THE ELECTRIC UTILITY SECTOR AS A WHOLE, OR ON THE INVESTOR OWNED UTILITIES AND THEIR CUSTOMERS IN PARTICULAR.

The Commission and the investor-owned electric utilities it regulates already have years of experience in reducing GHG emissions through existing Commission programs such as energy efficiency programs, demand-side management programs, and increasing use of renewable resources. In developing the new GHG emissions rules, the Commission should seek to adopt model rules that consider the actions already taken by the IOUs and are the most cost-effective, considering the available mechanisms and the potential for emissions reductions. The Commission should insure that the adopted model rules result in equitable sharing of the cost of

emissions reductions under the market-based approach according to the various sources' contribution to the state's GHG emissions.

In developing the Commission's model rules for CARB's consideration, care must be taken not only to include all jurisdictional LSEs but also to account for the emissions of publicly owned municipal utilities to insure that an equitable, comprehensive, market-based approach is developed. This will result in the lowest costs to achieve the ultimate emission reduction goal. Simple fairness and logic demands that all emitters in the state that contribute to the GHG emissions problem should be responsible for the cost of reducing their share of the emissions inventory. If costs are shifted and responsibility avoided, then there will be a distortion in the market signals that are sent to emitters, resulting in excess emissions by some, and unfair distribution of the cost of reduction. The best and most administratively simple solution from a societal perspective arises when the burden rests on the source of the problem. One sector should not bear the costs of another sector and one LSE should not bear the costs of another LSE. Allocations of cost across the sectors and within the sectors should be equitable and linked to the emissions of each sector. The rules must be comprehensive and include all LSEs so that the cost of the emissions produced is shared fairly. Finally, because the customers of the IOUs the Commission regulates have over the past several decades already invested substantial amounts of energy efficiency and other low GHG emitting resources, the Commission should recognize the investment these customers have alreadymade.

Reducing GHG emissions in the electric sector will be difficult, costly, and potentially disruptive of a reliable supply of electricity. Many LSEs have already reduced GHG emissions by structuring their portfolios according to the guidance of the Commission in its loading order and various rulemaking proceedings. As a result, further significant GHG reductions (as contemplated in the Climate Action Team Final Report) for those entities that have already substantially reduced GHG will be more difficult and costly. Those entities that have not already aggressively reduced emissions,, will also likely find it very difficult to switch fuels in time to

meet their reasonable fair share of the GHG reduction allocated to the electric sector in a timeframe consistent with meeting the AB 32 goal.

To address the challenge of further GHG reductions from the electric sector, compliance flexibility is a necessity. Given the circumstances extant in the electric sector, a cap, or a cap-and–trade, market-based approach to achieve the return to 1990 by 2020 requirement cannot work without flexible compliance options.

The Commission is clearly mindful of its responsibilities to assure both a reliable and reasonably priced supply of electricity. Among the measures already identified by the Commission to address compliance flexibility is the design of a sound emission offset policy. SCE encourages the Commission to continue exploring the elements of a sound offset policy and include such measures in its model rule. Other flexibility measures, such as banking and borrowing already mentioned in the Commission's order should be further explored. The Commission should also consider whether and under what circumstances a reasonably structured alternative compliance mechanism, such as a payment of a "GHG reduction fee" above a specific price per ton of carbon reduced is necessary to provide compliance flexibility in furtherance of the overall requirements enunciated in AB 32.

Cost shifting between LSEs and publicly owned municipal utilities will make it difficult for LSEs to recover their costs of cleaning up the municipal utilities emissions. The Commission cannot develop its GHG emissions cap in total isolation. It must work with the CARB to ensure that the regulations apply equitably across the board and to all emitters, including publicly owned utilities that may have not done nearly as much in the past to reduce their emissions of GHG gases.

IV.

THE COMMISSION SHOULD TAKE THE EXISTING ENERGY MARKET ENVIRONMENT INTO ACCOUNT BY COORDINATING WITH THE CAISO'S EFFORTS IN ITS MARKET REDESIGN AND TECHNOLOGY UPGRADE PROJECT.

Several difficulties arise in implementing and complying with a LBC on GHG emissions in an energy market environment. These difficulties are primarily related to the ability of the LSE to: (i) track and match its load with actual emissions of resources that served the load; and (ii) ensure that the resources used to serve the LSE's load have an emissions profile that complies with the LSE's LBC obligations.

The CAISO is currently implementing MRTU, including an Integrated Forward Market (IFM) for electricity transactions which has not existed in California since the demise of the California Power Exchange. In MRTU, the CAISO controls the commitment and dispatch of specific resources, and not the individual LSEs. Furthermore, with limited exceptions, LSEs cannot restrict which resources are made available to the CAISO's market for its use. Equally important, LSEs do not fully control how the supply sources are bid into MRTU.

Grid reliability is the CAISO's first and foremost objective in determining the commitment and dispatch of supply sources. The CAISO would then use bid-based economics to determine which supply resources are committed and dispatched to serve the load. All other considerations that cannot be translated into relevant comparable economic terms are not likely to impact CAISO's commitment and dispatch decision.

The current FERC-approved design of MRTU does not allow the CAISO to recognize or honor LSE-specific limitations on the use of particular types of generation. Any further change in the way the CAISO optimizes or limits the use of resources to incorporate GHG considerations will have to be approved by FERC,

As evident under the current market design, an LSE could place supply bids to serve its load from its own LBC compliant portfolio but could actually serve its load from other resources

if its own bids are rejected. Conversely, an LSE could sell a significant portion of its surplus resources into the market to serve other LSEs' load.

SCE believes it will be difficult to develop appropriate criteria to match actual load with actual supply in MRTU for any specific LSE. Furthermore, given that the commitment and dispatch process is not under an LSE's control, it is possible that the LSE will discover after the fact that the supply resources attributed to serve its load were not compliant with its load-based GHG cap.

Another problem arises related to imported energy in implementing a load-based GHG cap. California is in an import-dependent control area. Currently, CAISO has limited knowledge where energy originates (*i.e.*, which specific generating unit produced the energy in the interconnected system). The vast majority of imported energy is non-resource specific and is scheduled as an import into CAISO at interties that connect the CAISO with neighboring control areas. For example, SCE and other LSEs are routinely purchasing standard short-term energy products from liquid markets in other control areas (e.g., blocks of electricity to be supplied over a stipulated period, such as 6x16 hours, purchased at Palo Verde), without knowing which underlying generation resource supplies that energy.

In developing its new GHG emissions reduction model rules, the Commission should take the existing electricity market environment into account and should coordinate its policy development efforts in this proceeding with the CAISO's efforts in its MRTU implementation. SCE urges the Commission to developa thorough understanding of how the CAISO's markets are designed to function in the future, since the functioning of these markets will largely determine the dispatch of various supply sources which, in turn, determine the actual GHG emissions.

V.

THE COMMISSION SHOULD ADDRESS ISSUES RELATED TO LOAD MIGRATION IN DESIGNING AN LBC.

If the Commission's policy preference is to design and implement a load-based GHG cap, it will have to take into account the underlying uncertainty that exists today regarding LSEs' customer base. LSEs' customer base defines the amount of load they are expected to serve. However, due to programs such as Direct Access[13] (DA) and Customer Choice Aggregation (CCA), LSEs' customer base can and does frequently change, resulting in possibly dramatic shifts in the amount of load any specific LSE may be serving in the future. Not only are customers likely to migrate between IOUs and Energy Service Providers (ESPs), but they are also likely to switch from one ESP to another. As a result, LBC needs to allow for and accommodate this load migration, which occurs today and is likely to increase in the future when the DA suspension ends. The Commission should not unduly burden or penalize an LSE who finds that its load serving obligation suddenly increased due to customer migration beyond its control.

The Commission should also examine the problem of load migration that could occur as a result of GHG rules. Unless the rules are designed to affect different LSEs equally, load will migrate to the system that is able to comply at a lower cost. Because the IOUs are electricity service providers of the last resort, it is very possible that non-IOU ESPs and CCAs could "return" a portion of their load to the IOU if they find themselves unable to comply with the LBC. In such circumstances, the IOU will find itself at risk of non-compliance, not because of any of its own actions, but because of its inability to purchase LBC-compliant resources in a short time frame. The Commission should insure that the IOU's captive customer base does not pay a premium because of this unfortunate result. Such non-intuitive and difficult-to-foresee

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[13] Direct Access is currently suspended in California; however, this suspension is scheduled to end in a few years.

behaviors are another reason to include a reasonable safety valve or alternate compliance fee in a well-designed model rule.

VI.

SCE'S ADDITIONAL COMMENTS ON THE DRAFT SCOPE OF ISSUES AND DRAFT SCHEDULE FOR PHASE 2

A. Introduction.

In their Joint Ruling, the ALJs directed the parties to discuss the priority and time allocation for the implementation issues identified in Attachment A, any additional issues that the parties may identify, the sequence and timing for addressing those implementation issues, the draft schedule in Attachment B, and coordination with the CARB process. The ALJs also requested that the parties recommend an appropriate procedural process for addressing each of the programmatic areas and underlying issues, such as: (1) parties' comments and/or formal hearings followed by a draft decision; (2) workshops followed by comments and draft decision; (3) straw proposals or white papers to form the basis of parties' comments; and (4) multi-party industry working groups to prepare summaries of the issues and/or proposals that have been used as a basis for parties' comments.

The draft schedule for Phase 2 of this proceeding is organized around five programmatic elements: (1) reporting requirements, (2) baseline development and allowance allocation, (3) design of cap structure and ratchet, (4) flexible compliance mechanisms, and (5) modeling to support the evaluation of cost effectiveness.[14] SCE provides the following comments on a draft schedule.

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[14] The issues underlying the programmatic elements are described in Attachment A and the draft schedule is contained in Attachment B of the Joint Ruling.

B. Additional Programmatic Elements.

As discussed in these comments, SCE urges the Commission to preserve time to settle the threshold issues of:

- The Commission should establish the "end products" that will result from Phase 2;
- The Commission should determine the manner in which its rules will coordinate with the comprehensive, statewide, market-based approach that may be adopted by carb under AB 32 and EO S-20-06; and
- The Commission should resolve the potential inconsistency between the Commission's load-based regulations and the CARB's source-based regulations.

C. Comments on Scheduled Programmatic Elements.

1. Reporting Requirements.

The draft schedule states that the Commission may schedule a "potential workshop" on the state-of-the-art reporting requirements. SCE believes that it is imperative to hold a technical workshop to discuss the issues related to reporting and to schedule time for prepared written testimony and hearings, in order to develop a complete record regarding reporting emissions from electricity market transactions, including transactions where the supply source is not known.

2. Baseline Development and Allowance Allocation.

The draft schedule states that the Commission will allow for submittals of allocation proposals and a workshop on the allocation proposals. Once again, SCE believes that the Commission should schedule time for prepared written testimony and hearings, in order to develop a complete record, especially on topics such as the manner in which allowances will need to take into account load migration.

3. Design of Cap Structure and Ratchet.

The draft schedule has this segment occurring during the third quarter of 2007. The Baseline Development and Allowance Allocation process, however, will not be completed until either the third quarter of 2007 or early in the fourth quarter. SCE believes that the Baseline Development efforts and perhaps the Allowance Allocation efforts should occur before continuing to this segment where parties will discuss and finalize the design of the cap structure and ratchet. Moreover, SCE believes that one quarter is not sufficient time for this activity. The Commission should allocate at least six months and perhaps longer for this effort.

4. Flexible Compliance Mechanisms.

No specific additional comments at this time other than those that appear in Section II of these Comments.

5. Modeling To Support the Evaluation of Cost Effectiveness.

No specific comments at this time.

VII.

CONCLUSION

First, SCE urges the Commission to add a segment to the schedule of Phase 2, in which it will consider the manner in which it will coordinate its rules developed in Phase 2 of this proceeding with the CARB's process for developing regulations pursuant to AB 32 as a threshold issue before examining the scheduled issues.

Second, SCE urges the Commission, in establishing regulatory and market-based strategies to achieve GHG emission reductions for its jurisdictional LSEs, to do so in a manner that: (1) does not impose a disproportionate cost burden on the electric utility sector as a whole or on the IOUs in particular; (2) coordinates closely with the CEC, CARB, and CEPA to ensure equitable and comparable rules are developed and applied to all electric utilities and electric

service providers; (3) is most cost-effective; (4) takes the existing energy market environment into account by coordinating with the efforts of the CAISO in its MRTU process; and (5) addresses issues related to load migration in designing a LBC program.

Finally, SCE urges the Commission to propose draft model rules that cover the LSEs over which the Commission has authority and then present these model rules to the CARB for integration into statewide regulations that CARB will adopt pursuant to AB 32. The Commission should advise the CARB to adopt equivalent rules for the other sectors over which the CARB has authority under AB 32.

Respectfully submitted,

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November 15, 2006

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commissioner's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) PRE-PREHEARING CONFERENCE COMMENTS on all parties identified in the attached service list(s).

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **15th day of November, 2006**, at Rosemead, California.

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